STEPHEN M. BESS
ALICE BESS

IBLA 82-703 Decided March 7, 1983

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting high bid for competitive oil and gas lease. W-79289.

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

A decision rejecting the high bid in a competitive oil and gas lease sale as inadequate is properly set aside and the case remanded for reconsideration of the bid where the record on appeal discloses that the Government's presale bid evaluation for the parcel in question was based on erroneous computations.

APPEARANCES: Stephen M. Bess, pro se and for Alice Bess.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Stephen M. Bess and Alice Bess have appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated March 9, 1982, rejecting their high bid for competitive oil and gas lease, W-79289. 1/

On February 17, 1982, appellants and Clyde R. Elliott filed a bid of $15.67 per acre for 237.99 acres in parcel 3, situated in secs. 7, 9, 10, 17, and 20, T. 35 N., R. 68 W., sixth principal meridian, Wyoming. The bid was identified as the high bid for parcel 3. By memorandum dated March 1, 1982, the Deputy Minerals Manager, North Central Region, Minerals Management Service (MMS), recommended rejection of the bid as inadequate, stating: "Well Draw Field, where this tract is located, is a prolific hydrocarbon producer from the Teapot formation. * * * The value of these lands vary from $30/acre to

1/ The bid was also filed by Clyde R. Elliott who has not participated in this appeal.

$953/acre as the production varies." MMS assessed oil and gas production within a 1-mile radius of parcel 3. This information was restated in the March 1982 BLM decision as follows:

> From the center of the SW^4 SW^4 of section 10, there is a well about 2000 feet in a southwesterly direction and another well about 4200 [feet] in a southwesterly direction. These wells have a monthly average production of 107.5 BO/D and 684 MCF/D for a monthly revenue of $179,341.00.
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> These same two wells are 1300 feet and 2000 feet in a south and southwesterly direction from the center of S^2 SW^4 of section 9.
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> From the center of the SE^4 SE^4 of section 17, there is a well about 1300 feet to the east, and a well 4800 feet in a northeasterly direction. The average production from these two wells is 137 BO/D and 287 MCF/D for a total monthly revenue of $177,804.00.
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> There are three wells located about 4200 feet northwest, 1700 feet southwest and 2000 feet southeast respectfully [sic] from the SW^4 NW^4 of section 20. Average production from these three wells is 3.5 BO/D and 18.9 MCF/D for a total monthly revenue of $5547.00.
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> And, from the center of the NW^4 NW^4 of section 7, there is a well about 3000 feet in a northeasterly direction. This well produces 5 BO/D and 15 MCF/D for a monthly revenue of $6882.00.

In rejecting appellants' bid, BLM relied on the recommendation of MMS.

In their statement of reasons for appeal, appellants assert that their bid was based on "extensive research" and that certain of the information cited by MMS is "factually incorrect." Appellants identify the two wells located in a southwesterly direction from the center of the SW 1/4 SW 1/4, sec. 10, as wells operated by Southland Royalty Company. Appellants contend that total sales in 1981 from both wells were limited to 2,876 barrels of oil for a total monthly revenue of $8,388. One of these wells is located in the NE 1/4 NE 1/4 and the other in the NE 1/4 NW 1/4, sec. 16, T. 35 N., R. 68 W., sixth principal meridian, Wyoming. Appellants also noted that 4,200 feet in a northwesterly direction from the center of the SW 1/4 SW 1/4, sec. 10, is a drilling location which has been "ready to go, i.e. all fees paid" since February 14, 1975, yet no drilling has taken place. This location is also 2,300 feet in a northwesterly direction from the center of the S 1/2 SE 1/4, sec. 9.

Further, appellants contend, regarding the two wells that BLM indicated were located in an easterly and northeasterly direction from the center of the SE 1/4 SE 1/4, sec. 17, that one is a well already noted in connection with the

SW 1/4 SW 1/4, sec. 10, and the other, operated by North Central Oil Corporation and located in the SW 1/4 SW 1/4, sec. 16, T. 35 N., R. 68 W., sixth principal meridian, Wyoming, had sales in 1981 of only 1,611 barrels of oil for a monthly revenue of $4,698.75. Thus, appellants assert that the BLM decision is misleading because there are only three wells in sec. 16. Appellants also noted that 2,000 feet in a northwesterly direction from the center of the SE 1/4 SE 1/4 sec. 17 is a dry hole drilled in April 1971. Finally, appellants state that "preliminary research" indicates that information regarding wells located in proximity to the SW 1/4 NW 1/4 sec. 20 and the NW 1/4 NW 1/4 sec. 7 is also "incorrect." Appellants also submit copies of "Operators Monthly Report[s] of Wells" filed with the Oil and Gas Conservation Commission, State of Wyoming, which supports their data for the three wells operated by Southland and North Central which are located in sec. 16, T. 35 N., R. 68 W., sixth principal meridian, Wyoming.

Review of the record discloses that the average number of barrels of oil per day and MCF per day used by MMS in computing the average monthly revenue for the Southland wells is equal to the average monthly production of the two wells taken from the operator's reports for the months of July through October, 1981, and divided by two. Thus, the numbers 107.5 and 684 equal, respectively, the average number of barrels of oil produced per month and the average number of MCF of gas produced per month, rather than the average daily production. This would apparently support a monthly revenue which is only a small fraction of that assumed by MMS in the report and recommendation upon which BLM based its decision. Similarly, the average number of barrels of oil per day and MCF per day used to compute the average monthly revenue of $177,804 based on the production of the North Central well in the SW 1/4 SW 1/4 of sec. 16, and the Southland well in the NE 1/4 NW 1/4 of sec. 16, corresponds to the average production of oil and gas per month (rather than per day) for those wells for the months of July through October of 1981.

In addition, appellants point out that the monthly revenue figures utilized by BLM include revenues for sales of gas; however, the reports submitted by appellants on appeal show no sales of gas from any of the three wells in sec. 16 during 1981.

[1] The Secretary of the Interior has discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1976); 43 CFR 3120.3-1. This Board has consistently upheld the exercise of that authority so long as the record establishes a rational basis for the conclusion that the highest bid does not represent a fair market value for the parcel. L. B. Blake, 67 IBLA 103 (1982), and cases cited therein. However, where the record on appeal discloses that the Government's presale bid evaluation for the parcel in question was based on erroneous computations, the decision is properly set aside and the case remanded for reconsideration of the bid as there is no longer a rational basis to reject the bid appearing in the record. See Vierson & Cochran, 67 IBLA 1 (1982).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case is remanded.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Will A. Irwin
Administrative Judge